

Order

Michigan Supreme Court
Lansing, Michigan

November 20, 2009

Marilyn Kelly,
Chief Justice

139366

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 139366
COA: 282187
Kalamazoo CC: 07-000327-FC

LYNETTE VONDA PONTIUS,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the March 24, 2009 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and REMAND this case to the Kalamazoo Circuit Court for amendment of the judgment of sentence. The trial court shall strike from the judgment of sentence any provision that the sentences in this case are consecutive to the sentence in the "Calhoun County Case." A trial court does not have authority to modify a valid sentence. MCR 6.429(A); *People v Holder*, 483 Mich 168 (2009). Where a court imposes a sentence that is partially invalid, only the invalid part of the sentence may be set aside. MCL 769.24; *People v Thomas*, 447 Mich 390, 393 (1994). The trial court stated on the record at the original sentence hearing that the sentences in this case were concurrent with the sentence in the Calhoun County Case. It was subsequently determined that the term of years imposed for Count 1, conspiracy to commit murder, was invalid. Although the trial court had authority to change the conspiracy to commit murder sentence from a term of years to a life sentence, the trial court did not have authority to change the concurrent sentences to consecutive sentences because the concurrent sentences were valid.

CORRIGAN, J., would direct the prosecutor to respond.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 20, 2009

Corbin R. Davis

Clerk